

REMARKS

INTRODUCTION

In accordance with the foregoing, claims 13 and 14 have been canceled, and claim 8 has been amended to correct a typographical error. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1-3 and 6-12 are pending. Claims 2, 3, and 6-8 are under consideration. Reconsideration is respectfully requested.

ENTRY OF RESPONSE UNDER 37 C.F.R. §1.116

Applicant requests entry of this Rule 116 Response and Request for Reconsideration because:

- (a) claims 13 and 14 of the rejected claims have been canceled thereby at least reducing the issues for appeal;
- (b) the amendment of claim 8 should not entail any further search by the Examiner since no new features are being added or no new issues are being raised; and/or
- (c) the amendment does not significantly alter the scope of the claims and place the application at least into a better form for appeal. No new features or new issues are being raised.

The Manual of Patent Examining Procedures sets forth in §714.12 that "[a]ny amendment that would place the case either in condition for allowance or in better form for appeal may be entered." (Underlining added for emphasis) Moreover, §714.13 sets forth that "[t]he Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

REJECTION UNDER 35 U.S.C. §103(a)

In the final Office Action at pages 2-3, numbered item 3, claims 2-3 and 6 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2001/0054008 to Miller, et al. in view of U.S. Patent No. 6,587,827 to Henning, et al. The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

Independent claim 2, as amended in the Response filed April 5, 2004, recites "a step of generating delivery instruction data which includes the packaging material designation information, the goods designation information and the delivery destination information in the designation data received in the receiving step" and "a step of outputting the generated delivery instruction data to a freight agency." Similarly, independent claim 3 was amended to recite "a step of generating delivery instruction data which includes the packaging material designation information, the goods designation information and the delivery destination information in the designation data received in the receiving step" and "a step of transmitting the generated delivery instruction data to the third client computer."

Applicant notes that, in item 6 on page 5 of the final Office Action, the Examiner has acknowledged that "Miller does not teach sending delivery data to a freight agency." The Examiner contends, however, Hennig, et al. teaches that it is known to send delivery data to a supplier. Henning, et al. at col. 6, lines 35-40. Applicant respectfully submits that the supplier of Henning, et al. is analogous to the retailer of Miller, et al. According to Henning, et al. at col. 2, lines 13-59, a client computer receives an order from a customer, and the client then creates a order event with a preferred supplier, and the order is routed to that supplier. If the supplier accepts the order, the supplier is the party responsible providing the product for generating a bill, like the retailer of Miller, et al. Accordingly, Applicant respectfully submits that both Miller, et al. and Hennig, et al., either alone or in combination, fail to teach or suggest that delivery instruction data is generated and then outputted or transmitted to a freight agency. Accordingly, Applicant respectfully submits that independent claims 2 and 3 patentably distinguish over both Miller, et al. and Hennig, et al. Further, Applicant respectfully submits that claims 6-8, which depend directly from claim 3, patentably distinguish over Miller, et al. and Hennig, et al. for at least the reasons set forth above.

In the final Office Action at pages 3-4, numbered item 4, claim 7 was rejected under 35 U.S.C. §103(a) as being unpatentable over Miller, et al. in view of U.S. Patent No. 6,484,169 to Wilsford. The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

In the final Office Action at page 4, the Examiner refers to the Miller, et al. abstract, lines 5-6, which state that "A list of the products is generated. A search is made for vendors of the products on the list." Applicant respectfully submits that the abstract of Miller, et al. is referring to the creating of a listing of products for display to the potential buyer, and the search made for vendors refers to searching to determine which vendors (retailers) have the requested product in stock. Thus, Applicant respectfully submits that Miller, et al. is referring to an inventory query. Further, this query is of goods available for sale, not goods already sold. The Examiner has also asserted that Wilsford teaches tracking customer tendencies and compiling statistics for marketing use. Applicant respectfully submits that Wilsford only teaches or suggests tracking the most requested products to determine what new products should be developed or offered.

Accordingly, for at least these reasons and the reasons set forth above, Applicant respectfully submits that neither Miller, et al., Hennig, et al., or Wilsford, alone or in combination, teach or suggest "extracting order data whose retailer information indicates a retailer different from that indicated by the retailer information in the goods data corresponding to goods designation information in the same order data" and "gathering statistics including the retailer information and goods designation information in the extracted order data." Thus, Applicant respectfully submits that claim 7 patentably distinguishes over the cited references.

CONCLUSION

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited. At a minimum, this Amendment should be entered at least for purposes of Appeal as it either clarifies and/or narrows the issues for consideration by the Board.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited and possibly concluded by the Examiner contacting the undersigned attorney for a telephone interview to discuss any such remaining issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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